

***IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK***

AWILDA VIVES,

Plaintiff, Docket No.

-against-

DOLLAR TREE STORES, INC., DOLLAR TREE, INC., and
ABC CORPORATIONS 1-5, fictitious names whose present
identities are unknown that may also be responsible for the
maintenance of the premises,

Defendants.

NOTICE OF REMOVAL

AND NOW come defendants, DOLLAR TREE STORES, INC. and DOLLAR TREE, INC., by and through their attorneys, MINTZER, SAROWITZ, ZERIS LEDVA & MEYERS, LLP, and respectfully aver as follows:

1. The plaintiff has commenced a civil action against the defendants in the Supreme Court of the State of New York, County of Bronx under Index No.: 804480/2021.

2. Attached hereto and marked as **Exhibit “A”** is a true and correct copy of plaintiff’s complaint. Attached hereto and marked as **Exhibit “B”** is a true and correct copy of removing defendants’ answer. The complaint, being the first pleading served in this case, was received by defendant on April 13, 2021. The first notice to removing defendants that plaintiff was seeking damages in excess of \$75,000 was received by defendant in the form of an email from plaintiff’s counsel dated April 20, 21 and received on that date (**Exhibit “C”**). This Notice of Removal is therefore timely.

3. DOLLAR TREE STORES, INC. is a Virginia corporation with its principal place of business in Virginia.

4. DOLLAR TREE, INC. is a Virginia corporation with its principal place of business in Virginia.

5. It is alleged in the Summons (Exhibit "A") that plaintiff is a resident of the County of Bronx, State of New York and is therefore a domiciliary of the State of New York.

6. Upon information and belief, nominal defendants "ABC CORPORATIONS 1-5, fictitious names whose present identities are unknown that may also be responsible for the maintenance of the premises" do not exist and therefore do not play into a diversity analysis.

7. In the complaint, plaintiff demanded damages in a sum that exceeds all jurisdictional limits of all lower New York State courts. Plaintiff's email of April 20, 2021 makes a settlement demand of \$125,000. Thus this case has an amount in controversy in excess of \$75,000.00 exclusive of interest and costs.

8. Diversity of citizenship exists between plaintiff, a New York domiciliary, and defendants, domiciliaries of Virginia. Further, diversity of citizenship existed at the time the action sought to be removed was commenced and continues to exist through the time of the filing of this notice. Defendant is therefore entitled to removal pursuant to 28 U.S.C. §1441.

9. This action is being removed within thirty days after defendant became aware of the amount in controversy and, therefore, federal jurisdiction. This removal is therefore timely. 28 U.S.C. §1446(b)(3).

WHEREFORE, defendant respectfully requests that the above captioned action, now pending in the Supreme Court of the State of New York, County of Bronx, be removed therefrom to this Honorable Court.

Dated: Hicksville, New York
April 30, 2021

Yours, etc.



BRADLEY J. LEVIEN, ESQ. (BL-0503)
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